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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,498	10/31/2000	Steven A. Sunshine	185641-007310US	2952
22428	7590	10/01/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			TSAI, CAROL S W	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/703,498

Applicant(s)

SUNSHINE, STEVEN A.

Examiner

Carol S Tsai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/04/02 & 02/20/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent No. 6,422,061 to Sunshine et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

With respect to claims 1 and 15, Sunshine et al. disclose a system for detecting and transferring data pertaining to an unknown analyte, the system comprising: a device manager (e-nose device 100 shown on Fig. 16); a data capture module (e-nose device 100 shown on Fig. 16) coupled to the device manager for capturing data pertaining to the unknown analyte (analyte 16 shown on Fig. 16) at a first geographic location; a first data formatting module coupled to the device manager for formatting data captured by the data capture module into a transmissible format; and a first input/output (I/O) module coupled to the device manager for transmitting data formatted by the first data formatting module to a processor at a second geographic location via a computer network (computer network 18 shown on Fig. 16) (see Figs. 16-18; col. 16, lines 20-34; col. 27, lines 24-67; and col. 29, lines 17-63).

As to claims 2, 3, 5, 16, and 17, Sunshine et al. also disclose a processor manager; a data acquisition module coupled to the processor manager for receiving formatted data from the device manager (processor 12 shown on Fig. 16); a second data formatting module coupled to the processor manager for decoding data received by the data acquisition module (see col. 30-53); a database interface module coupled to the processor manager for retrieving data of known analytes from an electronic library (see col. 27, lines 45-57 and col. 28, lines 24-53); an analysis module coupled to the processor manager for performing analysis on data decoded by the second data formatting module and generating an analysis result (see col. 15, lines 37-52); and a second I/O module coupled to the processor manager for managing communications between the processor manager and other entities (see col. 16, lines 20-34).

As to claim 4, Sunshine et al. also disclose the database interface module can also update the electronic library with data received by the data acquisition module (see col. 27, lines 41-51).

As to claims 6 and 10, Sunshine et al. also the computer network is selected from a member from a group consisting of a worldwide computer network, an internet, the Internet, a wide area network, a local area network, and an intranet (see col. 5, line 60 to col. 6, line 3; col. 16, line 58 to col. 17, line 4; and col. 28, lines 53-65).

As to claim 7, Sunshine et al. also disclose the data capture module performs a step including: capturing the data pertaining to the unknown analyte in an analog format (see Abstract, lines 16-19 and col. 4, lines 19-24).

As to claims 8, Sunshine et al. also disclose converting data captured by the data capture module into a digital format; encoding the captured data in digital format into an analysis format; encoding the captured data in analysis format into TCP/IP format; and encoding the captured data in TCP/IP format into a network-specific data format (see col. 29, lines 17-29).

As to claim 9, Sunshine et al. also disclose displaying the analysis result on a web page (see col. 15, lines 49-52).

As to claims 11 and 12, Sunshine et al. also disclose said wireless communications being implemented using communications technologies selected from a member of a group consisting of infrared technology, satellite technology, microwave technology and radio wave technology (see col. 28, line 66 to col. 29, line 6).

As to claim 13, Sunshine et al. also disclose the data captured by the data capture module being olfaction data (see col. 3, lines 19-22 and col. 5, line 65 to col. 6, line 3).

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As to claim 14, Sunshine et al. also disclose the system being used in an application selected from a group consisting of hospital/medical applications, fire safety monitoring, environmental toxicology, remediation, biomedicine, material quality control, food monitoring, agricultural monitoring, heavy industrial manufacturing, ambient air monitoring, worker protection, emissions control, product quality testing, oil/gas petrochemical applications, combustible gas detection, HJS monitoring, hazardous leak detection, emergency response and law enforcement applications, explosives detection, utility and power applications, food/beverage/agriculture applications, freshness detection, fruit ripening control, fermentation process monitoring and control, flavor composition and identification, product quality and identification, refrigerant and fumigant detection, cosmetic/perfume applications, fragrance formulation, chemical/plastics/pharmaceuticals applications, fugitive emission identification, solvent recovery effectiveness, anesthesia and sterilization gas detection, infectious disease detection, breath analysis and body fluids analysis (see col. 26, line 26 to col. 27, line 23).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Braig disclose an analyte concentration monitoring system having network-based communication features which provide a link between an analyte detection system and a centralized computer.

Fish discloses an instrument detecting in a sample the presence of an analyte.

Sunshine discloses a computer program product or code in memory for detecting and

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transmitting sensory data from a portable field device to a processor via a computer network for analytic purposes.

McDevitt et al. disclose a system for the rapid characterization of multi-analyte fluids, in one embodiment, including a light source, a sensor array, and a detector.

Goodman discloses electronic techniques for analyte detection.

Lea discloses a device and method for separating a fluid component from a non-fluid component of a sample comprising a plurality of microspheres disposed in abutting relation and forming therebetween a plurality of capillary channels, whereby when the microspheres are disposed in fluid communication with a sample the fluid component is separated from the non-fluid component by capillary flow of the fluid component through the capillary channels formed by the interstitial spacing between abutting microspheres.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. W. Tsai whose telephone number is (571) 272-2224. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax number for TC 2800 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2800 receptionist whose telephone number is (571) 272-1585 or (571) 272-2800.

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In order to reduce pendency and avoid potential delays, Group 2800 is encouraging FAXing of responses to Office actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2800 will be promptly forwarded to the examiner.



Carol S. W. Tsai
Patent Examiner
Art Unit 2857

09/29/04